

*in opinion*

December 21, 1955

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CONCORD, N.H.

Kenneth L. Cowan, Director  
Division of Inheritance Taxes  
State Tax Commission  
State House  
Concord, New Hampshire

Re: Estate of Eugenie Mansean

Dear Mr. Cowan:

Your letter of December 13, 1955, requests an opinion upon a set of facts arising in the above-entitled estate which are stated as follows.

In her will dated June 21, 1927, the testatrix disposed of the residue of her estate by bequeathing it

"to my niece, Cecile Chretien, to her and her heirs forever."

It appears from a certificate furnished you that the deceased had in fact adopted Cecile on July 15, 1925, some two years prior to the date of the will. We are without knowledge of the existence of a natural relationship between the two save as reference is made to it in the language quoted from the will above.

The testatrix passed away on December 12, 1954, and in the Statement of Heirs filed by the executor under date of December 16, 1954, Cecile is described as the adopted daughter of the deceased. Your inquiry is whether or not the residue passes to its taker exempt from the tax of RSA 86. We answer in the affirmative.

Under the statute cited (s. 6), property passing to a niece of the decedent is subject to the tax; property passing to an adopted child is exempt. Young v. Bridges, 86 N.H. 135, which you cite, is authority for the proposition that the broad legal effect of adoption is to create a new status in the person adopted, which status supersedes the former one with but few qualifications. The policy of the law is to make the adopted child the child of the adopting parents.

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If in fact at the time of the making of the will Cecile was the adopted child of the testatrix - and it so appears - the fact that the testatrix referred to her as "my niece" is immaterial. Regardless of how she may have been characterized by the testatrix, the adopted child was then and is now entitled to all of the benefits arising out of the status conferred by adoption. Specifically, she is entitled to take the property willed to her by her adoptive parent free from the inheritance tax.

Your file is returned.

Very truly yours,

Warren E. Waters  
Deputy Attorney General

WEW/aml  
Encl.